Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

YALE LAW JOURNAL

VOLUME XV

1905-1906

PUBLISHED BY
THE YALE LAW JOURNAL COMPANY
NEW HAVEN, CONN.

COPYRIGHT BY THE YALE LAW JOURNAL COMPANY

1905-1906.

PRESS OF THE
DORMAN LITHOGRAPHING COMPANY
NEW HAVEN, CONNECTICUT

INDEX.

ARTICLES.

Admiralty, Partition of a Vessel in. *James D. Dewell, Jr.*..... 394
Admiralty, State's Statutes and. *James D. Dewell, Jr.*..... 51
Agency, Ratification in Without Knowledge of Material Facts. *Arthur L. Corbin*..... 331
Association International *Des Avocats,* The New. *Prof. Simeon E. Baldwin*..... 163
Carrier of Goods, The Beginning of Liability of. *Joseph H. Beal, Jr.*... 207
Criminal Law, The Administration of. *William H. Taft*..... 1
Corporate Stock, The Issue of, For Property Purchased—A New Phase. *Leonard A. Wallstein*..... 111
Divorce, Conflict of Laws Upon the Subject of Marriage and. *Clarence D. Ashley*..... 389
Divorce, The Divorce Congress and Suggested Improvements in the Statutory Law Relating to. *C. La Rue Munson*..... 405
Divorce, The Recent Conference on. *Talcott H. Russell*..... 401
Ecclesiastical Law, American v. British. *Epaphroditus Peck*..... 255
Emancipation and Citizenship. *Gordon E. Sherman*..... 263
English Constitution, A Recent Chapter of the. *D. H. Chamberlain*.... 315
Grand Jury System Be Abolished, Should the? *George Lawyer*..... 178
International Agreements, Without the Advice and Consent of the Senate. *James F. Barnett*..... 18
Law Books Be Written? How Should. *Albert S. Bolles, LL.D.*..... 221
Modern Written Constitutions, Early Suggestions of. *Gordon E. Sherman*..... 172
Motor Cars, The Status. *Xenophon P. Huddy*..... 83
Name, A Man and His. *Bernard C. Steiner*..... 341
Names, Personal. *C. S. Arnold*..... 227
Old Testament Laws, A Tentative Codification of the. *Charles Foster Kent*..... 284
Probate Courts in Connecticut, The System of, With Some Suggestions for Its Improvement. *James Kingsley Blake*..... 131
Self-Incrimination, Constitutional Provisions Against Forcing. *Henry T. Terry*..... 127
Siamese Law, The Sources of Ancient. *Tokichi Masao*..... 28

BOOK REVIEWS.

Agency, A Treatise on the Law of. *Wm. Laurence Clark and Henry H. Skyles*..... 47
Annotated Cases, American and English. *H. Noyes Greene*..... 313
Bailments, Including Carriers, Law of. *James Schouler*..... 49
Bible, Leading Cases in the. *David Werner Amram*..... 109
Brief Making and the Use of Law Books. *William M. Lile, Henry S.*

Redfield, Eugene Wambaugh, Alfred Mason and James Wheeler.... 206
Circumstantial Evidence, Wills on. *Sir Alfred Wills*..... 155
Civil and Commercial Law. *F. Meili*..... 151
Civil Law, Howe's Studies in the. *Wm. Wirt Howe*..... 49
Constitutional Law of England. *Edward Wavell Ridges*..... 104
Contracts, Lawson on. *John D. Lawson*..... 106
Contracts, Page on. *William Herbert Page*..... 108
Contracts, Wald's Pollock on. *Samuel Williston*..... 310
Copyright Cases and Decisions. *Arthur S. Hamlin*..... 443
Corporations, A Treatise on the Incorporation and Organization of. *Thomas Gold Frost*..... 443
Courts and Procedure in England and New Jersey. *Charles H. Hartshorne*..... 313
Crimes, A Treatise on the Law of. *Wm. L. Clark and Wm. L. Marshall* 203
Criminal Law, May's. *John Wilder May*..... 381
Current Law. *George Foster Longsdorf and Walter Q. Schumaker*..... 443
Domestic Relation, Law of the. *James Schouler*..... 48
Domestic Relations and the Law of Persons, Cases on. *Edwin H. Woodruff*..... 154
Domestic Relations, The Law of. *Joseph R. Long*..... 383
Ejectments, The Trial of Disputed Land Titles. *George W. Warvelle*.. 444
Elevators, The Law of Passenger and Freight. *J. A. Webb*..... 205
Equitable, Pomeroy's Remedies. *John Norton Pomeroy, Jr*..... 252
Equity, Jurisprudence, Pomeroy's. *John Norton Pomeroy, Jr*..... 107
Fire Insurance, The Law of. *George A. Clement*..... 383
Fixtures, Ewell on. *Marshall D. Ewell*..... 107
Forensic Practice, Hints for. *Theodore F. C. Demarest*..... 253
History, American Political. *Prof. Alexander Johnston*..... 251
Income and Principal, The American Law Relating to. *Edwin O. Howe, Jr*..... 382
Judiciary, The American. *Simeon E. Baldwin*..... 204
Jurisprudence, Law and Ethics. *Edgar B. Kingsead*..... 155
Perpetuities, The Rule Against. *John Chipman Gray*..... 381
Procedure, Its Theory and Practice. *William T. Huges*..... 250
Quais Contracts, Cases on. *James Brown Scott*..... 311
Railroad Rates, American. *Walter C. Noyes*..... 156
Real Property, A Treatise on the Law of. *Frank Goodwin*..... 47
Roman Water Law. *B. F. Ware*..... 153
Special Verdicts and Special Findings by Jury, A Manual Relating to. *George B. Clementson*..... 312
Street Railway Reports Annotated. *F. B. Gilbert*..... 382

COMMENT.

CARRIER—the right of a, to deal in the goods it carries..... 366
Contract of, limiting its liability for lost baggage, does not apply to hand luggage..... 428
CONVICTION—must every circumstance necessary for a, be proved beyond a reasonable doubt?..... 192
COPYRIGHT LAW—perforated music rolls not sheet music within meaning of..... 141
CRIMINAL LAW—federal interference with state administration of..... 368

DIVORCE—scope of full faith and credit clause of the Federal Constitution 426
FORGERY—at common law and its extension under statutes..... 89
INTERSTATE COMMERCE—state liquor laws as regulations of..... 34
JEOPARDY—former, as applied in the Philippines..... 238
LABOR LEGISLATION AND LIBERTY OF CONTRACT..... 424
LIBELOUS MATTER—privileged communications of..... 91
LIFE INSURANCE—good faith in warranties of health in..... 33
MASTER—liability, for failure to warn inexperienced servant of dangers of employment..... 139
Liability of, for injuries sustained by reason of a breach of a statutory duty..... 421
MORTGAGES—priority as between corporate, and judgments for torts arising from contract..... 297
MUNICIPAL CORPORATION—legislative power over the contract of..... 363
MUNICIPAL REGULATION OF MILK BUSINESS—constitutionality of..... 236
RAILROAD—the right of a, company to grant to a cab company the exclusive use of its cab stand..... 240
Liability of lessor for negligence of lessee resulting in injury to lessee's servant..... 188
RISK—the doctrine of assumption of, as applied to the breach of specific duties imposed by statute..... 190
SALES OF MERCHANDISE IN BULK..... 93
SPECIAL OFFICER—liability of persons requesting appointment of, for his acts..... 87
STOCKHOLDERS—legislative alteration of contract relations among..... 36
TAXATION—limitation on exemption of a state from, imposed by national government..... 298
UNION REFRIGERATORS..... 365
WITNESSES—legal immunity given to, need protect them only in the jurisdiction where testimony is given..... 234

RECENT CASES.

ADMINISTRATORS—misconduct—commissions..... 194
ADVERSE POSSESSION—color of title—tax deeds..... 149
Taking successive possession..... 300
ASSAULT AND BATTERY—retaking possession of property—justification... 371
ASSIGNMENT—equitable assignments—checks..... 243
ATTORNEY AND CLIENT—lien—priority—set-off..... 143
Signature of attorney on bond..... 194
BANKS AND BANKING—checks—payment—after notice not to pay..... 430
Insolvency—title to deposit..... 243
BASTARDY—evidence—bastard child— resemblance..... 96
BOUNDARIES—establishment by acquiescence—effect..... 371
BOYCOTT—injunction—actual injury..... 350
CARRIERS—ejection of passenger—punitive damages..... 96
Employees as passengers..... 244
Injuries to passengers—care required..... 430
Injuries to passengers by servants—different crews..... 372
Loss of freight—damages—limitation..... 243
Passengers..... 373

CARRIERS—Passengers' effects,—money —loss—liability..... 372
Elevators—degree of care required..... 431
Termination of relation—notice to consignor..... 373
Torts of servant—damages..... 373
CHARITABLE TRUSTS—*cy prés* doctrine..... 300
Uncertainty..... 301
COMPETITION—right to protection in equity..... 309
CONFLICT OF LAWS—married woman's contract—*lex loci contractus*..... 97
CONSTITUTIONAL LAW—Chinese exclusion—claim of citizenship..... 97
Classification of cities—special legislation..... 244
Equal protection of laws—territorial inequality..... 374
Federal Courts—*habeas corpus*—conclusiveness of state decision.... 143
Federal license—tax state agencies..... 245
Former jeopardy—conviction in Appellate Tribunal..... 245
Interstate commerce..... 97
State Statutes—construction..... 98
CONTRACTS—construction..... 431
Exclusive contract for personal services—injunction..... 195
Implied contract for attorney's services..... 38
Location of depots—public policy..... 245
Municipal corporations—patented materials..... 38
Promise to answer for the debt of another—statute of frauds..... 143
Public policy—labor unions..... 145
Restraint of trade validity..... 301
CONTRIBUTORY NEGLIGENCE—questions for jury..... 144
CONVERSION—measure of damages..... 43
CORPORATIONS—accommodation notes—*ultra vires*—estoppel..... 98
Bond issue—restraint of stock subscription..... 302
Eminent domain—legality of corporate existence..... 144
Individual liability of stockholders—national bank statute of limitations..... 432
Notes—personal liability of officers..... 196
Rights of persons entitled to income from shares—stock dividends.. 302
Stock dividends—income or principal..... 43
CRIMINAL LAW—Anson—evidence—previous fires..... 432
Conduct of trial—remarks of judge..... 433
Evidence—insanity—opinion of non-experts..... 303
Objections to indictment—waiver..... 374
Remarks of prosecuting attorney—error..... 145
Right of accused to confront witnesses—constitutional provision.... 375
Self-defense—duty to retreat..... 196
DAMAGES—mental suffering..... 145
Personal injuries—pleadings..... 433
DEAD BODIES—mutilation—action by surviving husband..... 375
DEATH—wrongful, act—right of action..... 434
DEDICATION—limited to public use..... 434
DEED—delivery—right of recall..... 376
DIVORCE—counsel fees—allowance to wife..... 376
Evidence of co-respondent..... 40
Separation from bed and board—evidence..... 435

EJECTMENT—interest recoverable—mineral rights..... 145
When lies—stretching wires over land..... 246
EMINENT DOMAIN—public use—effect of legislative action..... 435
EQUITY—cancellation of instruments—fraud—remedy at law..... 146
EVIDENCE LEASES—collateral—agreements..... 196
Compelling production of documents—subpœna *Duces Tecum*..... 146
Declaration of agent after conclusion of agency—admissibility..... 147
Expert testimony—hypothetical questions..... 303
Homicide—threats—by deceased..... 486
Non-expert witnesses—insanity..... 304
Ownership of property—conclusions..... 376
Privileged communications..... 147
Uncorroborated confession..... 304
FIRE INSURANCE—policy—stipulation as to incumbrances—effect..... 99
FRAUDULENT CONVEYANCES—debts..... 147
GAME—Federal statutes—construction..... 436
HIGHWAYS AGENT—liability of town for negligence..... 304
Use of automobiles—negligence in operating automobile..... 437
HOMICIDE—Cooling time..... 42
HUSBAND AND WIFE—affections— alienation..... 246
INFAMOUS CRIME—definition..... 305
INJUNCTION—adequate legal remedy—maintenance of railroad station... 147
Contracts in restraint of trade—suit by attorney-general..... 148
Interference with patrons—boycott..... 305
INNS—what constitutes a guest..... 99
INSURANCE—beneficial association—warranties of assured..... 246
Construction of policy—"fire" defined..... 197
INTERSTATE BUSINESS—telegraph companies..... 99
INTOXICATING LIQUORS—civil damage laws—construction—post—child—right of action..... 306
INVADING PROVINCE OF JURY—credibility of witnesses..... 379
JURISDICTION—excess of—liability of inferior judge..... 197
LANDLORD AND TENANT—dangerous premises—injury to licensee..... 197
Landlord's lien—possession of crops..... 42
LIBEL..... 377
Damages..... 247
Privileged..... 100
LICENSES—merchants—persons included..... 377
LIMITATION OF ACTIONS—acknowledgments—sufficiency..... 247
MANDAMUS—original jurisdiction of Federal Circuit Court..... 148
MARRIAGE—common law marriage..... 378
Evidence and consent..... 248
Validity..... 407
MASTER AND SERVANT—employer's liability acts—fellow servants..... 247
Liability of innkeeper..... 38
Non-compliance with statute—assumption of risks..... 39
Owner's duty toward contractor's servant..... 100
MORTGAGES—*priority*—rights of first mortgages..... 149
MUNICIPAL CORPORATIONS—constitutional law—police power—deprivation of property..... 149
Defective sidewalks—duties of traveler..... 198

MUNICIPAL CORPORATIONS — Liability for negligence — maintenance of sewers 100
Police power—bill-boards 248
Streets—delicts—contracts—actions 149
Taxation—special assessment not tax 378
MUNICIPAL ORDNANCES—wages of laborers—constitutionality 437
NAVIGABLE WATERS—right of upland owner to reach 198
Title to bed of stream 306
NEGLIGENCE—burden of proof—contributory negligence 249
Proximate cause 306
NUISANCE—action for damages—leased premises 438
Prescription 199
Creation by grantor—notice to abate 101
OFFICERS—term of office—termination 199
PATENTS—contracts—royalties 438
Invention—combination of old elements 101
PLEADING—parties—misnomer mode of objection 199
PLEDGES—warehouse receipts—delivery 39
PRINCIPAL AND AGENT—authority of agent—admissibility of evidence 40
Compensation of agent commissions 307
Liabilities—contract under seal 41
PROMISSORY NOTE—certainty—exchange and collection charges 200
RAILROADS—crossing accidents—contributory negligence 307
Crossing accidents—contributory negligence 41
Crossing accident—contributory negligence—infirm persons 439
RELIGIOUS SOCIETIES—jurisdiction of courts 39
SALES—rescission by buyer—waiver of right to rescind 307
SLAVERY—right of inheritance 249
TAXATION—due process of law 102
TELEGRAPHS—messages—delay 308
TELEPHONES AND TELEGRAPHS—placing of wires—regulation by village 440
Poles and wires—in streets—additional burden 441
TORTS—charitable organization 41
Damages—specific proof 308
Imputed negligences—injury to child 200
Personal injuries—negligence of volunteer 440
TRADE—names—acquisition of property therein—protection from interference 379
Marks and trade names—combination of personal and geographical names 378
TRADEMARKS—licenses to use validity 201
TRIAL—argument of counsel—appeal to sympathy 441
TRUSTS—constructive trusts 309
Savings bank deposits 41
Spendthrift—estate of cestui que trusts 201
VENDOR AND PURCHASE—unrecorded deed—constructive notice 201